

भारत का राजपत्र

The Gazette of India

प्रसाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 33]

नई दिल्ली, शुक्रवार, मई 10, 1968/वैसाख 20, 1890

No. 33]

NEW DELHI, FRIDAY, MAY 10, 1968/VAISAKHA 20, 1890

इस भाग में विभिन्न पृष्ठ संख्या दी जाती है जिससे कि यह प्रलग संकलन के क्षम में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th May, 1968:—

BILL NO. 53 OF 1968

A Bill further to amend the Companies Act, 1956

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. This Act may be called the Companies (Amendment) Act, Short title.
2. In this Act, unless the context otherwise requires, “appointed day” means the 3rd day of April, 1970. Definition.

1 of 1958.

Substitution of section 293A.

3. For section 293A of the Companies Act, 1956 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Prohibition regarding making of political contributions.

"293A. (1) Notwithstanding anything contained in this Act, neither a company in general meeting nor its Board of directors shall, after the commencement of the Companies (Amendment) Act, 1968, contribute any amount or amounts—

- (a) to any political party, or
- (b) for any political purpose to any individual or body.

(2) If a company contravenes the provisions of sub-section (1), then—

(i) the company shall be punishable with fine which may extend to five thousand rupees; and

(ii) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.”.

Insertion of new section 324 A.

4. After section 324 of the principal Act, the following section shall be inserted, namely:—

Abolition of managing agencies and secretaries and treasurers.

"324A. (1) Notwithstanding anything contained in this Act or in the memorandum or articles of association or in any contract to the contrary, where any company has, on the appointed day, a managing agent or secretaries and treasurers, the term of office of such managing agent or, as the case may be, the secretaries and treasurers shall expire, if it does not expire earlier, on the appointed day. 25

(2) No company shall appoint or re-appoint any managing agent or secretaries and treasurers on or after the appointed day.”.

Amendment of section 365.

5. In section 365 of the principal Act, in clause (c), after the word and figures "section 324," the figures and letter "324A," shall be inserted. 30

Cesser of certain provisions of the Act.

6. On and from the appointed day, so much of the provisions of the principal Act as relate to managing agents and secretaries and treasurers shall cease to have effect except as respects things done or omitted to be done under those provisions before such cessar. 35

STATEMENT OF OBJECTS AND REASONS

On the 1st December, 1967, an assurance was given to the Lok Sabha that Government would bring forward during the next following budget session of Parliament a Bill to ban contributions by companies to any political party, or for any political purpose to any individual or body and to abolish the system of management of companies by managing agents. The Bill seeks to fulfil the assurance. It also seeks to abolish simultaneously the system of management of companies by secretaries and treasurers which is akin to the system of management of companies by managing agents.

2. The propriety of companies making contributions to any political party, or for any political purpose to any individual or body has for some time been the subject of discussion both inside and outside the Parliament. A view has been expressed that such contributions have a tendency to corrupt political life and to adversely affect healthy growth of democracy in the country, and it has been gaining ground with the passage of time. It is, therefore, proposed to ban such contributions.

3. Section 324 of the Companies Act, 1956 empowers the Central Government to notify that companies engaged in specified classes of industry or business shall not have managing agents. Under the Rules framed thereunder, Government appointed the Managing Agency Enquiry Committee to enquire into the desirability of applying the said provisions to companies engaged in established industries or any other industry or business as may be deemed fit by the Committee. In pursuance of the Report of the Committee submitted on the 16th March, 1966, Government issued a notification to the effect that the term of office of a managing agent of any company in the specified industries shall expire at the end of three years from the 2nd April, 1967.

The Monopolies Inquiry Commission observed that the system of managing agencies was one of the most important causes which hastened the process of concentration of economic power in India.

Taking all the factors into consideration, it is proposed to abolish the system of management of companies by managing agents altogether at the same time as in the case of specified industries referred to above.

4. The Managing Agency Enquiry Committee observed that, at one time, the institution of secretaries and treasurers was thought of as a suitable alternative to the managing agency system but for all practical purposes secretaries and treasurers exist only in those cases where managing agents already in existence had to shed some of the managed companies in view of the limit of ten on the total number of companies that a managing agent can manage. The Committee did not see any particular gain in such a change. Secretaries and treasurers can be given all the powers and privileges of a managing agent except that they (*i.e.* the former) cannot appoint their representative on the Board of Directors of the managed company, and cannot draw more than 7½ per cent. as their commission while the managing agents can draw up to 10 per cent. of the net profit. It would thus be obvious that no useful purpose would be served by abolishing the managing agency system alone if the resultant void is to be filled up by the secretaries and treasurers. Hence the Government proposes to abolish the system of management of companies by secretaries and treasurers simultaneously with the abolition of the system of management of companies by managing agents.

NEW DELHI;
The 3rd May, 1968.

K. V. RAGHUNATHA REDDY.

BILL No. 52 OF 1968

A Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. This Act may be called the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1968. Short title.

5 2. In section 8 of the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as the principal Act), for sub-section (3), the following sub-section shall be substituted, namely:—

10 **"(3) The compensation payable for the acquisition of any property under section 7 shall be the price which the requisition-**

tioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition.”.

Insertion
of new
section
25.

3. In the principal Act, after section 24, the following section shall be inserted and shall be deemed to have been inserted with effect on 5 and from the 10th day of January, 1968, namely:—

Special
provision
as to cer-
tain re-
quisitions
under
Act 51
of 1902.

“25. (1) Notwithstanding anything contained in this Act, any immovable property requisitioned by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, under the Defence of India ¹⁰ Act, 1962, and the rules made thereunder (including any immoveable property deemed to have been requisitioned under the said Act) which has not been released from such requisition before the 10th January, 1968, shall, as from that date, be deemed to have been requisitioned by the competent authority under the ¹⁵ provisions of this Act for the purpose for which such property was held immediately before the said date and all the provisions of this Act shall apply accordingly:

Provided that—

(a) all determinations, agreements and awards for the ²⁰ payment of compensation in respect of any such property for any period of requisition before the said date and in force immediately before the said date, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after ²⁵ the said date;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, in ³⁰ exercise of the powers conferred by or under Chapter VI of the Defence of India Act, 1962, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this section was in force on ³⁵ the date on which such thing was done or action was taken.

5
10 of 1897.

(2) Save as otherwise provided in sub-section (1), the provisions of the Defence of India Act, 1962, and the rules made thereunder, in so far as those provisions relate to the requisitioning of any such immovable property as is referred to in sub-section (1), shall as from the 10th January, 1968, cease to operate except as respects things done or omitted to be done before such cesser and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act.”.

STATEMENT OF OBJECTS AND REASONS

The Defence of India Act, 1962 will expire on the 10th July, 1968, that is, six months from the date of revocation of the Proclamation of Emergency. A large number of immovable properties have been requisitioned under the Defence of India Act, 1962. The cost of acquisition of these properties will be prohibitive. On many of these requisitioned lands valuable structures have been put up. In the majority of the cases it has not been possible to vacate the lands and hand them over to the owners. It is, therefore, considered necessary that the properties requisitioned under the Act should continue to be subject to requisition even after the expiry of the Act. For this purpose it is proposed to amend the Requisitioning and Acquisition of Immovable Property Act, 1952, by adding a provision somewhat on the lines of section 24(2) of that Act to provide that all property requisitioned under the Defence of India Act, 1962, shall from the date of revocation of the Proclamation of Emergency be deemed to be property requisitioned under the 1952 Act. In other words, though in fact the requisitioning of these properties was made under the Defence of India Act, it shall be deemed to have been made under section 3 of the Requisitioning and Acquisition of Immovable Property Act, 1952 and all the provisions of the latter Act shall apply accordingly.

2. Opportunity is taken to omit clause (b) of sub-section (3) of section 8 of the 1952 Act as the same has been struck down by the Supreme Court as violative of article 31(2) of the Constitution.

3. The Bill seeks to achieve the above objects.

NEW DELHI ;

JAGANATH RAO.

The 30th April, 1968.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA IN RESPECT OF THE REQUISITIONING AND ACQUISITION OF IMMOVABLE PROPERTY (AMENDMENT) BILL, 1968.

[Copy of letter No. 19012(1)/66-Pol. dated the 4th May, 1968 from Sardar Iqbal Singh, Deputy Minister in the Ministry of Works, Housing and Supply to the Secretary, Lok Sabha.]

The President having been informed about the subject matter of the Bill, has recommended to the House the consideration of the Bill under article 117 (3) of the Constitution.

FINANCIAL MEMORANDUM

Section 8 of The Requisitioning and Acquisition of Immoveable Property Act, 1952 (30 of 1952), lays down the principles and methods of determining compensation for property requisitioned or acquired under the Act. Sub-section (3) of section 8 of the Act indicates two methods for the determination of compensation payable for any property acquired under section 7 of the Act. In view of the Supreme Court Judgment in the Union of India Vs. Kamalbhai Harjiwandas Parekh & Others (1967 Supreme Court Notes, p. 301) striking down clause (b) of sub-section (3) of section 8 as violative of Art. 31(2) of the Constitution of India, compensation will now have to be determined only by one method as provided for in clause (a) of sub-section (3) of section 8 of the Act. The amendment of section 8 by clause 2 of the Bill therefore might involve some additional expenditure from the Consolidated Fund of India but the amount of extra expenditure involved, if any, cannot be determined having regard to the fact that it is not possible to visualise at this stage which property will be acquired and what compensation will be payable thereof under the Act.

2. Clause 3 of the Bill seeks to insert a new section in the Requisitioning and Acquisition of Immoveable Property Act, 1952. If the Bill is passed into law, the properties requisitioned under the Defence of India Act shall from the 10th January, 1968 be deemed to be properties requisitioned under the 1952 Act. The recurring compensation which will be payable in respect of the properties in question during the period they are subject to requisition as a result of the enactment of the Bill will be practically the same as would have been payable if the properties had continued to remain under requisition under the Defence of India Act, 1962 and the Rules made thereunder. As the number of such requisitioned properties will naturally vary from time to time and will steadily show a downward trend, it is extremely difficult to give an estimate of the amount of compensation that will be payable from year to year in the future. At the present moment, it is estimated that annual rental compensation for the said properties would be approximately Rs. 125 lakhs.

3. As and when the said requisitioned properties required to be retained on a long term basis are acquired, the acquisition compensation therefor would be paid on the basis of open market value as provided for by section 8 of the 1952 Act. It is again difficult to estimate how many of the said requisitioned properties will need to be acquired and how much non-recurring expenditure will have to be incurred from year to year as a result of such acquisition. It is, however, roughly estimated that the cost of acquiring of the said requisitioned properties will be approximately Rs. 36 crores.

S. L. SHAKDHER,
Secretary.